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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/582,905	06/13/2006	Johann Schenkl	Wuesthoff-8 (9A-98 448)	5005
26479	7590	02/25/2008		
STRAUB & POKOTYLO 620 TINTON AVENUE BLDG. B, 2ND FLOOR TINTON FALLS, NJ 07724			EXAMINER PHAM, HOA Q	
			ART UNIT 2886	PAPER NUMBER
			MAIL DATE 02/25/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/582,905	<b>Applicant(s)</b> SCHENKL, JOHANN	
	<b>Examiner</b> Hoa Q. Pham	<b>Art Unit</b> 2886	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 June 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/9/07</u> . | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Drawings***

2. The drawings are objected to because figures 1-4 are blur and "texts" are in handwriting. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. The present invention does not set forth **what kind or type of the diaphragm system** is used in the turbidity sensor in order to generate a measurement beam aligned to the receiver.

5. Claims 11-26 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. As mentioned above, the present invention fails to show or disclose what type of the diaphragm is used in the system, there is no particular example of a diaphragm so that one skill in the art can make and use the same.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 11-13 and 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fukuda (4,257,708) in view of Cummins (5,485,013).

Regarding claims 11-13, 24-26, Fukuda discloses a sensor for transmission measurement in a washing machine or dishwasher with a carrier (20, 20a, 20b), a transmitter (24) attached to the carrier to emit a transmitter beam, a receiver (28) attached to the carrier to receive the beam generated by the transmitter (figure 2). Fukuda does not explicitly teach a diaphragm system arranged on the carrier spaced from the transmitter or arranged on the carrier spaced from receiver. However, such a feature is known in the art as taught by Cummins. Cummins (of record), from the same field of endeavor, discloses a turbidity sensor in which the diaphragm (i.e., plates 30 and 32 in figures 4-5) are arranged spaced from the transmitter (10). It would have been obvious to one having ordinary skill in the art at the time the invention was made to include in Fukuda a diaphragm system spaced from the transmitter or spaced from the receiver. The rationale for this modification would have arisen from the fact that using such diaphragm system would prevent unwanted light that may enter the detector system as suggested by Cummins (column 4, line 65 through column 5, line 10).

8. Claims 11-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schenkl et al (2003/0142316) in view of Cummins (5,485,013).

Regarding claims 11-13, 24-26, Schenkl et al (of record) discloses a sensor for transmission measurement in a washing machine or dishwasher with a carrier (26), a

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transmitter (12) attached to the carrier to emit a transmitter beam, a receiver (14) attached to the carrier to receive the beam generated by the transmitter (figures 1-2). Schenkl does not explicitly teach a diaphragm system arranged on the carrier spaced from the transmitter or arranged on the carrier spaced from receiver. However, such a feature is known in the art as taught by Cummins. Cummins (of record), from the same field of endeavor, discloses a turbidity sensor in which the diaphragm (i.e., plates 30 and 32 in figures 4-5) are arranged spaced from the transmitter (10). It would have been obvious to one having ordinary skill in the art at the time the invention was made to include in Schenkl a diaphragm system spaced from the transmitter or spaced from the receiver. The rationale for this modification would have arisen from the fact that using such diaphragm system would prevent unwanted light that may enter the detector system as suggested by Cummins (column 4, line 65 through column 5, line 10).

Regarding claims 14, 17, 20, see figure 2 of Schenkl et al for the legs 8 and 10.

Regarding claims 15, 18, and 21; figure 2 of Schenkl et al shows that leg (10) is longer than leg (8) and a temperature sensor (18) arranged on the long leg.

Regarding claims 16, 19, 22, and 23; it would have been obvious to one having ordinary skill in the art at the time the invention was made to attach the plates of Cummins to the windows (34,36) of Schenkl et al so that the diaphragm could be held by the diaphragm system.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Following references relate to turbidity sensor: Wynn (4,160,914), Palumbo (2007/0222985), and Boyer et al (Re. 35,566).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hoa Q. Pham whose telephone number is (571) 272-2426. The examiner can normally be reached on Monday through Friday, 8:00AM TO 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tarifur Chowdhury can be reached on (571) 272-2287. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Hoa Q. Pham/  
Primary Examiner, Art Unit 2886

HP  
February 17, 2008